IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.559 OF 2005

M/s.Goblin Gautam Brite Lite
Industries & Ors. ..Applicants

Vs.

Shri.Rajesh Yogesh Chandan
& Anr. ..Respondents

...

Mr. B.H.Thakar Advocate for Applicants
Mr. Deepak Sharma i/b R.Satyanaramn for
Respondent no.1.
Mr.Y.S.Shinde, A.P.P. for the State

...

WITH

CRIMINAL APPLICATION NO.560 OF 2005

M/s.Goblin Gautam Brite Lite
Industries & Ors. ..Applicants

Vs.

Shri.Ravindra Vitthaldas Chandan
& Anr. ..Respondents

...

Mr. B.H.Thakar Advocate for Applicants
Mr. Deepak Sharma i/b R.Satyanaramn for
Respondent no.1.
Mr.Y.S.Shinde, A.P.P. for the State

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WITH

CRIMINAL APPLICATION NO.561 OF 2005

M/s.Goblin Gautam Brite Lite
Industries & Ors. ..Applicants

Vs.

Shri.Ravindra Vitthaldas Chandan
& Anr. ..Respondents

...

Mr. B.H.Thakar Advocate for Applicants
Mr. Deepak Sharma i/b R.Satyanaramn for Respondent no.1.
Mr.Y.S.Shinde, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 18,2005

P.C.

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State in all the matters.

2. The applicants are seeking quashing of process issued by the learned M.M. 30th Court, Kurla Bombay in C.C.No.505/S/2003, 506/S/2003 and 28/S/2004. In the said case process is issued under Sections 138 r.w. 141 of the Negotiable Instrumens Act. The applicants had preferred applications before the learned Magistrate for recalling of process. The learned Magistrate rejected the said applications. In view of the

observations of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal and Ors. [2004(4) Mh.L.J.274]**, it is clear that the Magistrate has no power to recall the process issued by him. Hence, I am not inclined to interfere with the order of the learned Magistrate rejecting the applications for recall of process.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicants makes a statement that the necessary revision will be preferred within four weeks from

today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks.

5. It is made clear that the revisions will be preferred in respect of the order of issuance of process and not in respect of order of the learned Magistrate rejecting the applications for recall of process.

6. The learned advocate appearing for the respondent no.1 fairly makes a statement that no objection will be raised in respect of delay in filing the revisions.

7. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

8. Criminal Applications are disposed of.

[V.K.TAHILRAMANI,J.]